Supreme Court, U.S.
FILED
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04 - _____

SUPREME COURT OF THE UNITED STATES

JOHN STANTON

Petitioner

v

DISTRICT OF COLUMBIA COURT OF APPEALS

Respondent

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS DISTRICT OF COLUMBIA CIRCUIT

JOHN STANTON
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Washington DC 20009
202-232-5369
Stanton_John@msn.com

QUESTIONS PRESENTED

1. **Does respondent's conduct in twice arguing for abstention and then refusing to consider the constitutional claims dismissed by the district court in deference to respondent's argument present "extraordinary circumstances" making the second abstention inappropriate?**

2. **In such circumstances is the United States Court of Appeals for the District of Columbia Circuit (DC Circuit) correct in summarily affirming the second abstention?**

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JURISDICTION

This petition under United States (US) Code Section 28-1254 is for review of the 17 November 2004 DC Circuit order in CADC 04-7065 summarily affirming the abstention dismissal in US District Court 02-574 made final by the 11 March 2005 order denying rehearing. Copies of both DC Circuit orders and the district court memorandum opinion are appended.

CONSTITUTIONAL PROVISIONS INVOLVED

US Constitution, Amendment I

"[There] shall [be] no law . . . abridging the freedom of speech."

US Constitution, Amendment V

"No person shall be . . . deprived of . . . property without due process of law."

STATEMENT OF THE CASE

This case presents the question whether the DC Circuit's summary affirmance of the district's court's dismissal (based on abstention) of constitutional claims against respondent's DC Bar disciplinary system was correct following respondent's deliberate failure (for the second time) to consider such claims after arguing for abstention.

Background, First Abstention

The history of what the DC Circuit has called the "serial dispute"[1] between the parties over the lawlessness of respondent's BPR and respondent's deference to the BPR in interpreting the DC Bar disciplinary rules to require advocacy for guilty pleas by counsel for the accused in criminal prosecutions is stated at pages 1-17 of the petition

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[1] *Stanton v DC Court of Appeals*, 326 USAppDC 404, 405, 127 F3d 72, 73 (1997) *cert denied* 519 US 1142, 117 SCt 1018 (1997) *mandamus denied* 525 US 808, 119 SCt 282 (1998) *cert denied* 529 US 1130, 120 SCt 2007 (2000). The dispute is over petitioner's "view of a lawyer's proper role in assisting clients with guilty pleas," *In re Stanton*, 757 A2d 87, 88 (DC 2000) *cert denied* 532 US 943, 121 SCt 1406 (2001), for which he was suspended from practice by respondent, and his "personal disagreement," *Ibid*, with respondent's interpretation of the disciplinary rules to require advocacy for guilty pleas. Although petitioner pledges "to comply with the unconstitutional requirement by constitutional means," *Id* at 89, respondent says his reinstatement must be denied "due to doubt about his willingness to conform his conduct to the disciplinary rules as interpreted," *Id* at 88, *In re Stanton*, 860 A2d 369, 370 (DC 2004). Respondent says that to have any chance at reinstatement petitioner must explain "how his position has changed," *In re Stanton*, 757 A2d at 89, on respondent's interpretation of its disciplinary rules.

for certiorari filed 12 April 2005 in a related case, *Stanton v DC Court of Appeals*, US 04-1355. While his third reinstatement action was pending before respondent petitioner "filed suit in federal court posing constitutional challenges both to the substantive provisions of the DC Rules of Professional Conduct . . . and to the procedures governing reinstatement."[2] "The district court dismissed . . . on grounds of abstention . . . because of the pending proceeding in the DC judicial system"[3] and petitioner appealed from the dismissal to the DC Circuit.

For many months the DC Circuit did nothing on petitioner's appeal even after respondent again denied his reinstatement without any consideration of his constitutional challenges until he petitioned for a writ of certiorari before judgment. Then the DC Circuit proceeded to "reverse the judgment regarding [petitioner's] procedural claims and remand the case for further proceedings."[4] On further proceedings, however, the district court stayed all discovery, refused to make findings on petitioner's claims, and dismissed them for the second time. On appeal from the second dismissal the DC Circuit took judicial notice of unspecified mysterious "facts of public record"[5] to affirm summarily by converting the dismissal into a summary judgment.

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[2] *Stanton v DC Court of Appeals*, 326 USAppDC at 405-406, 127 F3d at 73-74.

[3] *Stanton v DC Court of Appeals*, 326 USAppDC at 406, 127 F3d at 74. The suit alleged that the constitutional challenges posed had been presented to respondent but that respondent would not consider them.

[4] *Stanton v DC Court of Appeals*, 326 USAppDC at 412, 127 F3d at 80. The DC Circuit expressly found that respondent "ha[d] not considered," *Id* at 409, 127 F3d at 77, the constitutional claims or challenges it had asked the district court to dismiss "on grounds of abstention."

[5] *Stanton v DC Court of Appeals*, CADC 99-7093 (20 October 1999) *cert denied* 529 US 1130, 120 SCt 2007 (2000).

Second Abstention, Summary Affirmance

During the proceedings before the district court and the DC Circuit after the remand from the first abstention petitioner pursued his fourth reinstatement action before respondent. Again denying reinstatement, respondent said (1) "If petitioner's understanding of his ethical duty is exactly the same . . . he will not be heard,"[6] (2) "the lawyer is expected to give voice in court to the client's decision to plead guilty,"[7] (3) "Our consideration of [BPR] findings and recommendations is similar to our review of administrative agency decisions,"[8] (4) "In reaching our decision we rely solely on the assertions contained in the petition,"[9] and (5) "the doctrine of *ex post facto* application of law, to the extent that petitioner relies on it, by itself does not pertain to attorney discipline."[10]

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[6] *In re Stanton*, 757 A2d at 89, adding that, "as the [BPR] noted in the penultimate paragraph of it's dismissal order, petitioner has not yet come to grips with the substance of his misconduct which led to his suspension and to the repeated rejection by [respondent] and the [BPR] of his efforts to gain reinstatement," *Ibid.* The BPR order had demanded "straightforward acceptance" of the requirement of advocacy for guilty pleas.

[7] *In re Stanton*, 757 A2d at 90. Respondent said the obligations to the client under the DC Bar disciplinary rules "override the lawyer's First Amendment interests," *Ibid.*

[8] *In re Stanton*, 757 A2d at 91, such similar consideration to be accorded even though "[BPR] proceedings do not offer the same procedural protections," *Ibid*, and "the [BPR] does not follow the same procedures as District administrative agencies," *Ibid.*

[9] *In re Stanton*, 757 A2d at 89, disregarding "views as expressed at oral argument," *Ibid*, and in briefs contesting the BPR dismissal order.

[10] *In re Stanton*, 757 A2d at 90, indicating that the *ex post facto* doctrine would not de deemed to pertain to respondent's reinstatement factors of the nature and circumstances of the misconduct for which petitioner has been suspended or of his recognition of the seriousness of his misconduct.

As a result of these rulings in his fourth reinstatement action when he filed his fifth reinstatement action petitioner complained to the district court of constitutional deprivations in respondent's disciplinary system: (1) deprivation of freedom of expression by the demand for uncritical "straightforward acceptance" of respondent's interpretation of the DC Bar disciplinary rules to require advocacy for guilty pleas by counsel for the accused in criminal prosecutions, (2) deprivation of freedom of expression by the interpretation on the DC Bar disciplinary rules to require counsel for the accused in criminal prosecutions to announce or give voice to decisions to plead guilty even when the accused are ready, willing, and able to announce such decisions personally, (3) deprivation of due process of law by respondent's undue deference to the findings and recommendations reported by the lawless BPR, (4) deprivation of due process of law by respondent's practice of considering only the allegations of reinstatement petitions and of disregarding arguments made in explanation and defense of the allegations against BPR attack, and (5) deprivation of due process of law by respondent's demand for an admission of misconduct as a condition for reinstatement with abrogation of the prohibition against *ex post facto* application of the disciplinary rules. Petitioner asked the district court to declare unconstitutional as alleged in his complaint respondent's interpretations of the DC Bar disciplinary rules and as well as the challenged practices and provisions of the DC Bar disciplinary process.

Respondent moved to dismiss the complaint, arguing that petitioner would have an adequate opportunity to raise his constitutional claims in his pending reinstatement action. Petitioner opposed the motion, arguing that the history of respondent's bad faith default following the first abstention overcame any presumption of honesty and integrity and made a second abstention out of the question. While the district court

entertained this motion petitioner conducted discovery and moved for summary judgment based on indisputable facts established by respondent's discovery responses and published opinions.

While respondent's motion to dismiss and petitioner's motion for summary judgment were pending the BPR reported its findings and recommendation to respondent on petitioner's fifth reinstatement action. Petitioner then filed a civil statement informing the district court of the BPR report and attaching a copy of it. In the statement petitioner pointed out the fact that the BPR had reported no findings on petitioner's constitutional claims but had ducked and disregarded them as "a diatribe against the disciplinary system"[11] "disrespect for the disciplinary system,"[12] or "a broad-based and irrational assault on the disciplinary system."[13]

Unaffected by this information, the district court decided that it would "abstain from exercising jurisdiction under *Younger* abstention doctrine"[14] and so petitioner appealed to the DC Circuit from this second abstention from the "serial dispute" between the parties. Both parties moved for summary disposition of the appeal. Petitioner argued that there was no reason to doubt but every reason to expect that respondent intended to repeat the pattern of arguing for abstention and then deliberately failing to consider the claims or challenges dismissed by the district court "on grounds of abstention" respondent had argued.

For several months nothing happened on the summary disposition motions but when respondent denied petitioner's reinstatement "for the reasons set forth in the

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[11] ***In re Stanton*, 860 A2d at 372.**

[12] ***In re Stanton*, 860 A2d at 381.**

[13] ***In re Stanton*, 860 A2d at 381.**

[14] **District court memorandum opinion at 2-3, Appendix at 4A, referring to *Younger v Harris*, 401 US 37, 91 SCt 746 (1971).**

[BPR] report and recommendation"[15] the DC Circuit summarily affirmed the district court abstention, stating in the summary affirmance order that "although [petitioner] argues that he does not have an adequate opportunity to present his constitutional claims during the reinstatement proceedings . . . [respondent's] published opinions denying reinstatement show otherwise"[16] and that "[petitioner's] allegations of bad faith are unsupported by the record."[17]

Petitioner requested rehearing. He argued that respondent's latest published opinion considered none of his five claims for relief from (1) respondent's demand for uncritical acceptance of advocacy for guilty pleas, (2) respondent's demand that counsel for the accused give voice to decisions of the accused to plead guilty, (3) respondent's refusal to consider views as expressed in briefs and oral arguments, (4) respondent's undue deference to the lawless BPR, and (5) respondent's abrogation of the prohibition against *ex post facto* application of the disciplinary rules. He reminded the DC Circuit that in such circumstances it "would ordinarily vacate the district court's abstention and remand the case."[18] He asked for another remand to the district court for findings on his claims but the DC Circuit refused any rehearing so then came this petition.

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[15] ***In re Stanton*, 860 A2d at 371.**

[16] **DC Circuit summary affirmance order at 1-2, Appendix at 6A, with not a word about what respondent's latest published opinion otherwise shows.**

[17] **DC Circuit summary affirmance order at 2, Appendix at 6A, adding that petitioner's allegations "do not rise to the level of 'extraordinary circumstances' which would warrant federal intervention," *Ibid*, citing as examples cases where "bad faith" meant "that a prosecution has been brought without a reasonable expectation of obtaining a valid conviction," *Kugler v Helfant*, 421 US 117, 126, 95 SCt 1524, 1531 (1975), cases decided before abstention was extended to bar disciplinary proceedings in *Middlesex County Ethics Committee v Garden State Bar Association et al*, 457 US 423, 102 SCt 2515 (1982).**

[18] ***Stanton v DC Court of Appeals*, 326 USAppDC at 406, 127 F3d at 74.**

ARGUMENT

As if weaving transparent new clothes to conceal the lawlessness of an evil empire, the DC Circuit says respondent's latest published opinion shows that petitioner has "an adequate opportunity to present his constitutional claims during the reinstatement proceedings" and respondent's conduct in twice arguing for abstention and then deliberately failing to consider petitioner's claims in the DC Bar reinstatement proceedings presents no "extraordinary circumstances" warranting further federal proceedings.

Petitioner's Claims Remain to be Considered

Petitioner provided the district court with a copy of the BPR report adopted by respondent as its latest published opinion in the disciplinary campaign against him. The DC Circuit took notice of respondent's published opinions denying reinstatement and knows that the adopted BPR report contains no consideration of any of the due process or freedom of expression deprivation claims dismissed by the district court. How the DC Circuit can say in these circumstances that petitioner has a legally adequate opportunity to present constitutional challenges to respondent's disciplinary system is inexplicable unless, as respondent perceives a need to "protect the disciplinary system"[19] from petitioner's claims or challenges, the DC Circuit feels impelled to protect respondent from them as well. If so respondent's bad faith may be contagious.

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[19] *In re Stanton*, 860 A2d at 371.

Respondent's Conduct is Extraordinary

The DC Circuit says respondent's conduct does not present "'extraordinary circumstances' that would warrant federal intervention in the [DC] court proceedings."[20] But the DC court proceedings have been concluded and because there would be no such intervention if the district court at this point made findings of fact on petitioner's unconsidered claims the DC Circuit "would ordinarily vacate the district court's abstention and remand the case"[21] for further proceedings on them.

Even if further proceedings in the district court might amount to intervention the DC Circuit's view of "extraordinary circumstances" constituting "bad faith" is unduly restrictive and anachronistic. An attorney suspended from practice indefinitely by the machinations of a lawless bar disciplinary regime cannot reasonably be expected to show that a criminal prosecution "brought without a reasonable expectation of obtaining a valid conviction"[22] accounts for the "bad faith" of the regime in arbitrary treatment of his reinstatement petitions and refusal to consider his constitutional challenges to its

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[20] DC Circuit summary affirmance order at 2, Appendix at 6A.

[21] *Stanton v DC Court of Appeals*, 326 USAppDC at 406, 127 F3d at 74. The district court seems to have anticipated this course of events when it suggested that petitioner "may raise his constitutional claims when the claims are reinstated," district court memorandum opinion at 3, Appendix at 3A.

[22] *Kugler v Helfant*, 421 US at 126, 95 SCt at 1531. Helfant alleged "bad faith" in "seek[ing] a permanent injunction against the further prosecution," *Id* at 123, 95 SCt at 1530, of the state criminal charges against him. When abstention was extended to bar disciplinary proceedings the reference to "bad faith, harassment, or other exceptional circumstances," *Middlesex County Ethics Committee v Garden State Bar Association et al*, 457 US at 437, 102 SCt 2524, probably did not include such prosecutions in the context of reinstatement actions.

lawlessness after twice arguing for abstention so that it could consider them in his reinstatement proceedings.

A better, sounder, equitable view is simply that, "Generally the establishment of bad faith requires a showing that there is an absence of fair [DC] judicial proceedings"[23] and that where a federal plaintiff alleges "bad faith" the district court should not dismiss but "stay [the] federal lawsuit to protect against the possibility that [the plaintiff] could be deprived of the opportunity to present the merits of [the] claims in [the DC] court. If the [DC] court should dispose of [the] federal claims on grounds that do not reach the merits [the] federal action would still be pending."[24]

For the second time respondent has argued for abstention and then disposed of federal constitutional claims on grounds (the BPR report) that do not reach their merits. This "absence of fair DC judicial proceedings" presents "extraordinary circumstances" that would warrant federal intervention or at least a pending federal action as a forum for fair consideration of claims.

Abstention as an Abhorrent Forfeiture

If abstention is "founded on the basic doctrine of equity jurisprudence that courts of equity should not act . . . when the moving party has an adequate remedy at law and

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[23] *Carroll v City of Mount Clemens*, 945 FSupp 1071, 1075 (EDMI 1996), *aff'd* 139 F3d 1072 (CA6 1998), citing *Juidice v Vail*, 430 US 327, 97 SCt 1211 (1977).

[24] *Carroll v City of Mount Clemens*, 139 F3d at 1075-1076, citing *Deakins v Monaghan*, 484 US 193, 108 SCt 523 (1988). The DC Circuit seems to be determined to prevent any federal action from reaching the merits of petitioner's claims even though respondent has demonstrated for the second time that in practice its disciplinary system "clearly bars the interposition of the constitutional claims," *Moore v Sims*, 442 US 415, 426, 99 SCt 2371, 2379 (1979), petitioner has made against it. The DC Circuit now goes beyond delay of justice to outright denial.

will not suffer irreparable injury if denied equitable relief"[25] action is indicated where there have been two abstentions with no remedy at law for the deprivations petitioner has alleged.

CONCLUSION

The DC Circuit summary affirmance order should be vacated and petitioner's action should be remanded to the district court for findings on the factual merits of petitioner's claims of due process and freedom of expression deprivations in respondent's DC Bar disciplinary system.

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[25] ***Kugler v Helfant*, 421 US at 123, 95 SCt at 1530. There is in fact no legal remedy for petitioner's injury in the unfairly prolonged deprivation of his right to practice his profession. Even if respondent were not immune from "claims for monetary relief," *Hirsch v Justices of Supreme Court of California*, 67 F3d 708, 715 (CA9 1995), a remedy for petitioner's injury would not be calculable monetarily .**

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JOHN STANTON,

Plaintiff,

v. **Civil Action No.02-0574 (JGP)**

DISTRICT OF COLUMBIA
COURT OF APPEALS,

Defendant.

MEMORANDUM OPINION

Before the Court is defendant District of Columbia Court of Appeals' ("DCCA ") **Motion to Dismiss, or in the Alternative, for Summary Judgment** and **Plaintiff's Motion for Summary Judgment.** Plaintiff John Stanton alleges violations of his right to freedom of expression and three counts of violation of his due process rights. Count I, Stanton alleges that defendant violated his First Amendment right to free expression because of the District of Columbia Bar's requirement that members accept the disciplinary rules which require counsel for the accused to advocate during guilty pleas. Count II alleges that the DC Bar rule requiring counsel to "announce or give voice" to client's decision to plead guilty is a

violation of the plaintiff's First Amendment right to free expression. Count III, alleges that the defendant "highly and excessively deferential review" of the Board of Professional Responsibilities ("Board") finding and recommendations deprives plaintiff of due process of law under the Fifth Amendment. Count IV, also alleges a Fifth Amendment violation when the defendant "disregarded [the] brief and oral arguments" of the plaintiff, filed in response to the Board's report and recommendation. Finally, Count V, alleges a Fifth Amendment violation for the defendant' s requirement that plaintiff admit all misconduct. For the reasons set forth below, the Court grants to the Defendant's Motion to Dismiss

Mr. Stanton is once again before this Court. In 1983, defendant was suspended from practicing law. Def.'s Mtn. at 1. Subsequently, plaintiff has filed four petitions for reinstatement, all of which have been rejected by the DCCA. On March 8, 2002, plaintiff filed a fifth petition for reinstatement with the Board of Professional Responsibility[1]. Def.'s Mtn. at 9. This matter is still pending before the District of Columbia Court of Appeals.

The defendant court is responsible for reviewing the Board of Professional Responsibility's recommendation, which is a judicial proceeding. See District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 476-82 (1983). This Court has no jurisdiction to review the DCCA. *Id.* Furthermore, the DCCA plays a critical role in regulating attorney conduct in the District of Columbia. While the Circuit Court has yet to decide whether Younger applies[2], this Court has determined that the Younger abstention is appropriate in this context. Stanton v. District of Columbia Court of Appeals, No.95-1952 (D.D.C. filed January 23,1996) (JR).

Because this matter is pending before the defendant court,

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[1] For a full history see the following cases: In re Stanton, 470 A.2d 272 (D.C. 1983); In re Stanton, 470 A.2d 281 (D.C. 1983); 532 A.2d 95 (D.C. 1987); In re Stanton 589 A.2d 425 (D.C. 1991); In re Stanton, 682 A.2d 655 (D.C. 1996); In re Stanton, 757 A.2d 87 (2000); Stanton v. District of Columbia Court of Appeals, No.84-1619 (D.D.C. filed June 25, 1984) (JGP); Stanton v. District of Columbia Court of Appeals, No.95-1952 (D.D.C. filed Jan. 23,1996 and Apri128, 1999) (JR); Stanton v. District of Columbia Court of Appeals, 326 U.S.App.D.C. 404,127 F.3d 72 (1997).

[2] LaShawn v. Kelly, 301 U.S.App.D.C. 49, 52, 990 F.2d 1319,1322 (1993) ("This Court has never decided whether the District of Columbia is a state for Younger abstention purposes. Instead, every time the question has arisen, we have assumed that the doctrine applies to the District and nonetheless determined, in light of the facts of each particular case, that Younger abstention has not been appropriate.").

this court will abstain from exercising jurisdiction under Younger abstention doctrine. Younger v. Harris, 401 U. S. 37 (1970). Plaintiff may raise his constitutional claims when the claims are reinstated. For these reasons, this Court will dismiss the Complaint.

An appropriate Order accompanies this Opinion.

Date: August 8, 2003

JOHN GARRETT PENN
United States District Judge

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 04-7065 **September Term, 2004**

02cv00574

Filed On: November 17, 2004

[860185]
John Stanton,
Appellant

v.

District of Columbia Court of Appeals,
Appellee

BEFORE: Sentelle, Henderson, and Tatel, Circuit Judges

ORDER

Upon consideration of the motion for summary affirmance and the opposition thereto; and the motion for summary reversal, the opposition thereto, and the reply, it is

ORDERED that the motion for summary affirmance be granted and the motion for summary reversal be denied. The merits of the parties' positions are so clear as to warrant summary action. See Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam). The district court properly dismissed appellant's complaint under the abstention doctrine of Younger v. Harris, 401 U.S. 37 (1971), in light of the ongoing proceedings in the District of Columbia Court of Appeals (DCCA) concerning appellant's fifth petition for reinstatement to the District of Columbia Bar. See JMM Corp. v. District of Columbia 378 F.3d

1117,1125 (D.C. Cir. 2004) (holding that the District of Columbia is a state for purposes of Younger abstention).

The three requirements for proper invocation of Younger abstention are: 1) an ongoing state judicial proceeding; 2) the implication of an important state interest in the proceeding; and 3) an adequate opportunity to raise constitutional questions in the proceeding. Middlesex County Ethics Committee v. Garden State Bar Association, 457 U.S. 423, 432 (1982). Reinstatement proceedings are clearly judicial in nature. See Stanton v. DCCA, 127 F.3d 72,75 (D.C. Cir 1997) ("That Stanton's now-completed third reinstatement proceeding was judicial in nature is clear and undisputed."). The regulation of the practice of law and the enforcement of disciplinary rules governing members of the D.C. Bar is an important "state" interest. See Middlesex, 457 U.S. at 434 (noting that the State of New Jersey "has an extremely important interest in maintaining and assuring the professional conduct of the attorneys it licenses"). And, although appellant argues that he does not have an adequate opportunity to present his constitutional claims during the reinstatement proceedings, the full history of appellant's quest for reinstatement, including the DCCA's published opinions denying reinstatement, show otherwise.

Finally, appellant's allegations of bad faith are unsupported by the record and do not rise to the level of "extraordinary circumstances" which would warrant federal intervention in the state court proceedings. See. e.g., Kugler v. Helfant, 421 U.S. 117, 126 n.6 (1975); Perez v. Ledesma, 401 U.S. 82,85 (1971).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41 (b); D.C. Cir. Rule 41.

Per Curiam

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 04-7065 **September Term, 2004**

02cv00574

Filed On: March 11, 2005 [883272]

John Stanton,
Appellant

v.

District of Columbia Court of Appeals,
Appellee

BEFORE: Sentelle, Henderson, and Tatel, Circuit Judges

ORDER

Upon consideration of appellant's petition for rehearing filed December 16, 2004, it is

ORDERED that the petition be denied.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY:
Michael C. McGrail
Deputy Clerk

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 04-7065 **September Term, 2004**

02cv00574

Filed On: March 11, 2005 [883271]

John Stanton,
Appellant

v.

District of Columbia Court of Appeals,
Appellee

BEFORE: Ginsburg, Chief Judge, and Edwards, Sentelle, Henderson, Randolph, Rogers,* Tatel, Garland, and Roberts, Circuit Judges

ORDER

Upon consideration of appellant's petition for rehearing en banc, and the absence of a request by any member of the court for a vote, it is

ORDERED that the petition be denied.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY:
Michael C. McGrail
Deputy Clerk

* Circuit Judge Rogers did not participate in this matter.